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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,884	10/20/2003	Thomas Stark	A 91841	2059

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11/17/2005

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/687,884	Applicant(s) STARK ET AL.	
	Examiner Alexandra K. Pechhold	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12-15, 17 and 20 is/are rejected.
- 7) ☒ Claim(s) 5-11, 16, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>filed 10/19/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1, line 14 and claim 20, line 15 are objected to because of the following informalities: "at at" appears to be a typographical error. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4, 12-15, 17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxwell (US 5,836,142).**

Regarding claim 1, Maxwell discloses a portable handheld work apparatus arrangement comprising:

- a work apparatus including a drive motor (seen as engine 50) and a work tool (seen as the cord 53 of lawn trimmer 12) driven by the motor;
- at least one transport wheel (seen as either of wheels 13, 14);
- first and second struts (seen as frames 23 and 18, respectively);
- the first strut (seen as frame 23) having a first end (seen as end farthest from the wheels) facing away from the wheel and the first strut being

rotatably mounted on the work apparatus at the first end (since the end of frame 23 is rotatably mounted to shaft 21), and

- the second strut (seen as frame 18) having a first end (seen as end farthest from the wheels) facing away from the transport wheel, and
- the second strut being fixable at the first end thereof on the work apparatus (see Fig. 1) at first and second attachment points thereon (since the frame 18 can be attached at a variety of locations at the lower end of shaft 21), so as to change the position of the wheel relative to the apparatus.

Regarding claim 2, the first strut (seen as frame 23) defines an axis of rotation at the first end thereof (see Fig. 1 at the attachment of frame 23 to shaft 21 via bracket), the first and second attachment points are at first and second distances (seen as any two locations on the bottom end of the shaft 21 where the frame 18 can be attached to) from the axis of rotation, and the first and second distances being different from each other.

Regarding claim 3, the work apparatus has a frame (seen as shaft 21) and the wheel is disposed at the frame when the second strut (seen as frame 18) is fixed at the first attachment point (since the language "disposed at" in its broadest reasonable interpretation can encompass the a view such as in Fig. 1 wherein either wheel 13, 14 is "disposed at" the shaft 21 since they are close to each other).

Regarding claim 4, the wheel (13 or 14) is at a distance from the shaft (21) when the frame (18) is fixed at the second attachment point.

Regarding claim 12, Maxwell discloses a plurality of second attachment points since they can be at varying locations along the shaft (21) at different distances from the axis of rotation of the first end of the first strut.

Regarding claim 13, Maxwell discloses first and second transport wheels (13, 14) and an axle each (see Fig. 2), and an additional first strut (seen as either 28 or 29), and the axle is held by said two first struts and said second strut (see Fig. 2).

Regarding claim 14, Maxwell discloses a type of motorized cultivator, since the invention is a motorized lawn trimmer.

Regarding claim 15, Maxwell discloses a transport device for a portable handheld work apparatus, the transport device comprising:

- at least one transport wheel (seen as either of wheels 13, 14);
- first and second struts connected to said transport wheel (seen as frames 23 and 18, respectively);
- said second strut (seen as frame 18) having a first end (seen as end farthest from the wheels) facing away from the transport wheel; and
- a rail (seen as shaft 21) arranged on said first end of said second strut and said rail having at least two attachment points (seen as any two points on shaft 21 where the end of frame 23 can be attached to).

Regarding claim 17, the first strut of Maxwell (seen as frame 23) has a first end facing away from the wheel (see Fig. 1), and wherein the transport device further comprises a bolt arranged at the first end of the first strut (seen as the bolts in Fig. 4 which appears to be the same configuration at the other bracket).

Regarding claim 20, Maxwell discloses a portable handheld work apparatus arrangement comprising:

- a work apparatus including a drive motor (seen as engine 50) and a work tool (seen as the cord 53 of lawn trimmer 12) driven by the motor;
- the apparatus including a frame (seen as shaft 21) defining a longitudinal axis;
- at least one transport wheel (seen as either of wheels 13, 14);
- first and second struts (seen as frames 23 and 18, respectively);
- the first strut (seen as frame 23) having a first end (seen as end farthest from the wheels) facing away from the wheel and the first strut being pivotally mounted on the frame at the first end (since the end of frame 23 is pivotally mounted to shaft 21), and
- the second strut (seen as frame 18) having a first end (seen as end farthest from the wheels) facing away from the transport wheel, and the second strut being fixable at the first end thereof on the shaft (21) (see Fig. 1) at first and second attachment points (since the frame 18 can be attached at a variety of locations at the lower end of shaft 21); and
- means for selectively fixing the second strut (seen as frame 18) at the first end thereof on the frame (seen as shaft 21) at the first attachment point on the frame whereat the wheel is at a first distance away from the frame and at the second attachment point on the frame whereat the wheel is displaced in the direction of the axis and is at a second

distance away from the frame less than the first distance (since the first end of frame 18 can be attached at any point on the lower end of shaft 21 and therefore one can have a first attachment point and a second attachment point along the shaft 21 whereat the frame 18 can be pivoted and bolted so that it forms a more acute angle with the shaft 21 thereby creating a lesser distance as recited).

***Allowable Subject Matter***

4. Claims 5-11, 16, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 8/15/05 have been considered but are moot in view of the new grounds of rejection. The Examiner is now applying the Maxwell patent cited in the IDS filed 10/19/05 based upon the amendment to claim 1.

***Conclusion***

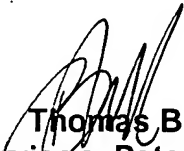
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3671

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
11/10/05